

## **REMARKS**

The Applicants submit the following remarks in response to the Final Office Action, dated October 27, 2006. Claims 1-5, 8-10, 20, 37, and 40-41 are pending with claims 1, 8, 10, 20, 37, 40 and 41 being independent. Claims 6-7, 11-19, 21-36, 38-39 and 42-50 were previously canceled without prejudice and/or disclaimer of subject matter. No new matter has been added. Each of the issues raised in the outstanding Final Office Action are addressed below.

### **35 U.S.C. 103(a)**

In the Final Office Action, the Examiner rejected claims 1, 3, 5, 8, 10, 20, 37, 40, and 41 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,462,644 to Howell (“Howell”) in view of U.S. Patent No. 6,339,731 to Morris et al. (“Morris”). This rejection is respectfully traversed.

With regard to claims 1, 8 and 10, the Examiner stated that Howell discloses all elements of claim 1 except a card reader, and relied on Morris for disclosing “a card reader for entering credit card information.” (Final Office Action, Page 2). Further, the Examiner stated that “Howell discloses a nothing prevents the system of Howell from being connected to both the transceiver and the multi-drop-bus as claimed.” (Final Office Action, Page 5). This rejection is respectfully traversed.

Claim 1 of the present application recites, *inter alia*, an enabling device having a wireless data network transceiver connected to the DEX interface of a vending machine controller (VMC), a card reader for entering credit card account information, and a micro-controller in communication with the transceiver and connected to the multi-drop-bus interface of a VMC.

Such features enable cashless/credit purchases of product from the vending machine, by the enabling device obtaining wireless credit purchase approvals, and also allows communication of information between the vending machine and a remote location. Claims 8, 10, 40 and 41 recite the same patentable features.

Howell is directed to a wide area network (WAN) of vending machines connected to a host that builds a database of vending-related information received from vending machines (Howell, Abstract). Howell's communication system for vending machines includes a vendor interface unit ("VIU") that is connected to a VMC (Howell, FIG. 3, Col. 4, lines 28-31) and includes a multiple-communication-technology adapter that is connected to the VMC via a Direct Exchange ("DEX")/Uniform Communication Standard ("UCS") connection or, alternatively, a multidrop bus ("MDB") (Howell, FIG. 3, Col. 4, lines 34-38).

The present invention includes a micro-controller in communication with the transceiver and also connected to the multi-drop-bus interface, as recited in claim 1. In contrast, Howell's system is not configured to be connected to both the transceiver and the multi-drop-bus interface simultaneously. Instead, Howell receives data either using the DEX format or the MDB format, but not both. (Howell, Col. 7, lines 45-51). This is different than the present invention, where the micro-controller is connected to both at the same time.

According to MPEP 2143:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference

(or references when combined) must teach or suggest all the claim limitations.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). (emphasis supplied).

Further, according to MPEP 2143.03:

To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

As Applicants pointed out above, Howell fails to disclose present invention's micro-controller that is in communication with the transceiver and connected to the multi-drop-bus interface, as recited in claim 1. The fact that "a nothing prevents the system of Howell from being connected to" both devices is not disclosed in Howell. In contrast, Howell specifically discloses connection to one or the other device, rather than to both. Howell's disclosure lacks any teaching, suggestion or motivation to connect the micro-controller to both devices. It appears that the Examiner found this teaching, suggestion or motivation in the Applicants' disclosure, which is clearly impermissible. Thus, Applicants respectfully request that the Examiner withdraw his rejection of claim 1.

Further, as Applicants stated in their August 14, 2006 Amendment and Response, the Examiner failed to provide a definition of what "a cashless reader" is as used in connection with the card reader feature recited in claim 1. In the Final Office Action, the Examiner stated: "[i]t is a reader where anything is read and accepted except for cash." (Final Office Action, page 5).

According to MPEP 2144.03:

Official notice without documentary evidence to support an examiner's conclusion is permissible only in some circumstances. While "official notice" may be relied on, these circumstances should be rare when an application is under final rejection or action under 37 CFR 1.113. Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known. As noted by the court in *In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970), the notice of facts beyond the record which may be taken by the examiner must be "capable of such instant and unquestionable demonstration as to defy dispute" (citing *In re Knapp Monarch Co.*, 296 F.2d 230, 132 USPQ 6 (CCPA 1961)).

Ordinarily, there must be some form of evidence in the record to support an assertion of common knowledge. See *Lee*, 277 F.3d at 1344-45, 61 USPQ2d at 1434-35 (Fed. Cir. 2002); *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697 (holding that general conclusions concerning what is "basic knowledge" or "common sense" to one of ordinary skill in the art without specific factual findings and some concrete evidence in the record to support these findings will not support an obviousness rejection). (emphasis supplied)

The Applicants would like to remind the Examiner that he is obligated to provide evidentiary support for his assertion that "[cashless] reader ... is a reader where anything is read and accepted except for cash." (Final Office Action, page 5). The Examiner failed to provide any such support. Applicants respectfully submit that Howell does not provide any disclosure of a "cashless reader". Thus, it is still not clear what the Examiner is referring in the Final Office Action. The Examiner is respectfully requested to clarify his reference to the "cashless reader" or withdraw the rejection entirely. Further, as the Examiner stated in the April 12, 2006 Office Action, Howell does not teach or suggest a card reader for entering credit card account information, as recited in claim 1. Thus, the Examiner is requested to withdraw his rejection of claim 1.

Morris does not cure the deficiencies of Howell. Morris is directed to a configurable vending machine audit module for receiving remote commands for indicating a type of vending machine data to be processed by the audit module, how to process data at the audit module and a location in memory for storage of the vending machine data.

However, nothing in either Howell or Morris, either alone or in combination, teaches or suggests an enabling device enabling electronic payment for products dispensed from a vending machine and enabling remote communication of information using the recited features of the card reader for entering in credit card account information and the wireless transceiver. Additionally, Howell, Morris or their combination fails to disclose, teach or suggest a micro-controller in communication with the transceiver and also connected to the multi-drop-bus interface, as recited in claim 1. For at least the above reasons, claim 1 is patentable over the cited prior art.

Claims 8, 10, 40, and 41 are patentable over the combination of Howell and Morris for at least the reasons stated above with respect to claim 1. As such, the rejection of claims 8, 10, 40, and 41 are respectfully traversed. The Examiner is requested to reconsider and withdraw his rejection of claims 8, 10, 40, and 41.

Claims 3 and 5 are dependent on the independent claim 1. As such, claims 3 and 5 are patentable over the combination of Howell and Morris for at least the reasons stated above with respect to claim 1. Thus, the rejection of claims 3 and 5 is respectfully traversed. The Examiner is requested to reconsider and withdraw his rejection of claims 3 and 5.

The Examiner also rejected claim 20 as being unpatentable over the combination Howell and Morris. The Examiner stated that Howell discloses all elements of claim 20 except "auditing

data on said vending machine”, and submits that this feature is instead taught by Morris (“an auditing data on said machine, a second procedure for auditing data on said vending machine, wherein data is sent back to the remote computer..., and a third procedure for configuring data on said vending machine, carrying out said procedure on said vending machine...” (Final Office Action, page 3). Further, the Examiner states that “Howell’s system discloses a setup process that is capable of resetting data on the vending machine.” (Final Office Action, page 5).

Claim 20 recites, *inter alia*, a method for managing information from a DEX enabled vending machine having a command that includes a first procedure for resetting data on the vending machine, where DEX data fields are cleared and the DEX port is disabled, and optionally including either or both of a second procedure for auditing data on the vending machine, wherein DEX data is sent back to the remote computer and a third procedure for configuring data on the vending machine.

As stated previously, Howell’s system sends full DEX files from the VIU to the communications concentrator, where the DEX files sent from the VIU are optionally compressed. (Howell, FIGS. 6A-6D, Col. 9, lines 23-29). Howell’s system fails to disclose, teach or suggest a procedure for resetting data on the vending machine, where DEX data fields are cleared and the DEX port is disabled, as recited in claim 20. Howell only optionally compresses the DEX files but does not reset the vending machine when the DEX data fields are cleared and the DEX port is disabled.

Howell also does not disclose resetting the vending machine in combination with one or both of a second procedure for auditing data on the vending machine, where DEX data is sent back to the remote computer and a third procedure for configuring data on the vending machine,

as recited in claim 20. The Applicants again point out to the Examiner that he is required to provide evidentiary support for his statements, specifically that “Howell … discloses a setup process that is capable of resetting data on the vending machine.” Applicants reviewed Howell and were unable to find any reference to “a setup process” that “reset[s]… data”. The Examiner is requested to provide proper reference in Howell discussing such process or withdraw his rejection. Thus, Howell does not disclose, teach or suggest all elements of claim 20.

Again, Morris fails to cure deficiencies of Howell. Morris’s vending machine audit module receives externally generated commands that indicate which type of vending machine data should be processed, and a location in the audit module storage for the data (Morris, Col. 1, lines 55-64). This is different than a procedure for resetting a vending machine, where the DEX data fields are cleared and the DEX port is disabled. Morris only deals with auditing a vending machine: optionally using DEX/UCS fixed communications protocol in conjunction with a physical interface for data transfer. However, Morris does not reset the DEX data fields (cleared) and disabling the DEX port, as recited in claim 20. Additionally, Morris does not disclose resetting the vending machine (or a “setup process” as referred to by the Examiner in the Final Office Action) in combination with one or both of a second procedure for auditing data on the vending machine, where DEX data is sent back to the remote computer and a third procedure for configuring data on the vending machine, as recited in claim 20. Thus, neither Howell, nor Morris disclose, teach or suggest all elements of claim 20.

Even if one were to improperly combine Howell and Morris, the present invention, as recited in claim 20, is not realized. Applicants respectfully submit that the combination of Howell and Morris would likely teach a network of vending machines that is capable of sending

full DEX files from the VIU and indicate which type of data should be processed and where it should be stored. However, the combination fails to disclose a procedure for resetting the vending machine, when the DEX data fields are cleared and the DEX port is disabled, as recited in claim 20.

As such, claim 20 is not rendered obvious in light of the combination of Howell and Morris. Thus, the rejection of claim 20 is respectfully traversed. The Examiner is requested to reconsider and withdraw his rejection of claim 20.

Claim 37 is patentable over the combination of Howell and Morris for at least the reasons stated above with respect to claim 20. Thus, the rejection of claim 37 is respectfully traversed. The Examiner is requested to reconsider and withdraw his rejection of claim 37.

In the Office Action, the Examiner rejected claims 2, 4, and 9 under 35 U.S.C. 103(a) as being unpatentable over Howell in view of Morris and further in view of Kolls. Claims 2, 4, and 9 are dependent on the respective independent claims 1 and 8. As such, they are patentable over the combination of Howell and Morris for at least the reasons stated above with respect to claim 1. Kolls does not cure the deficiencies of Howell, Morris, or their combination. Kolls fails to disclose, teach or suggest an enabling device enabling electronic payment for products dispensed from a vending machine and enabling remote communication of information using the recited features of the card reader for entering in credit card account information and the wireless transceiver of claim 1. As such, the combination of Howell, Morris, and Kolls fails to disclose, teach or suggest all elements of claim 1. Thus, claims 2, 4, and 9 are patentable over the combination of Howell, Morris, and Kolls for at least the reasons stated above with respect to

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claim 1. Thus, the rejection of claims 2, 4, and 9 is respectfully traversed. The Examiner is requested to reconsider and withdraw his rejection of claims 2, 4, and 9.

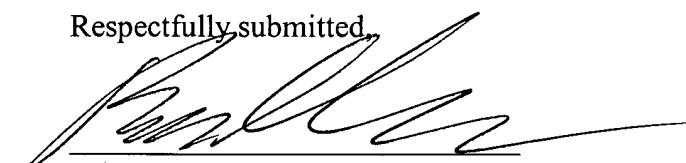
The claims are proper and definite. In view of the foregoing amendments and remarks, Applicants respectfully submit that all issues raised in the Final Office Action have been addressed and request favorable reconsideration of the present application. Applicants respectfully submit the currently pending claims of the present application are in condition for allowance.

No other fees for responding to the outstanding Final Office Action are believed due with this response. In the event that it is determined that additional fees are due, however, the Commissioner is hereby authorized to charge the undersigned's Deposit Account No. **50-0311**, Ref. No. 28589-022 (formerly 21958-022), Customer No. **35437**.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 935-3000. All correspondence should be directed to our New York office address, which is given below.

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Respectfully submitted,



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